

Document #4524

12/20/84

MEMORANDUM

DECEMBER 20, 1984

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: STEVEN F. COYLE, DIRECTOR

SUBJECT: FOURTH AMENDMENT TO REPORT AND DECISION ON CHAPTER 121A APPLICATION OF LAFAYETTE PLACE ASSOCIATES

On September 28, 1979, the authority voted to adopt a Report and Decision on the Application of Lafayette Place Associates for approval of an Urban Redevelopment Project pursuant to Massachusetts General Laws Chapter 121A, as amended, and Chapter 652 of the Acts of 1960. The proposal called for the acquisition of a certain real property bounded by Washington Street, discontinued Avon Street, Chauncy Street, a new public way to be constructed, Avenue de Lafayette, Harrison Avenue Extension, and a redefined Hayward Place and construction of a hotel, retail and commercial complex.

On April 3, 1980, February 19, 1983 and March 31, 1983, respectively, the Authority approved a First Amendment, a Second Amendment and a Third Amendment to the Report and Decision.

On November 2, 1984, as permitted by the original Application, the hotel portion of the project was transferred to Lafayette Place Hotel Associates.

On December 17, 1984, the applicants submitted a request to amend the project approval to show the admission of SNH Boston, Inc., an affiliate of Swissair, SwissAir Transport Company Ltd. and Nestle Ltd., as a general partner in Lafayette Place Hotel Associates, the withdrawal, of Sefrius Corp. as a General Partner of Lafayette Place Hotel Associates and the lease of the hotel to Swissotel Boston, Inc., also an affiliate of Swissair, SwissAir Transport Company Ltd. and Nestle Ltd. The lease is filed with the Application. Intercontinental Hotels Corporation, the proposed lessee, withdrew from the project on July 27, 1984.

These changes bring the experience, reputation and financial resources of the Swissair and Nestle group to the Lafayette Place hotel. Mondev Mass., Inc., an affiliate of Mondev International Ltd., will remain as co-general partner of Lafayette Place Hotel Associates. The ability of Lafayette Place Hotel Associates to perform the obligations and carry out the duties imposed by Chapter 121A with respect

to the project will be enhanced. The withdrawal of Sefrius Corp., another affiliate of Mondev International Ltd., will not have any material effect on the project.

In the opinion of the Chief General Counsel, this Amendment does not represent a fundamental change and does not require a public hearing.

It is therefore recommended that the Authority adopt this Report and Decision.

An appropriate vote follows.

VOTED: That the document presented at this meeting entitled, "Boston Redevelopment Authority Report and Decision on the Application for Approval of a Fourth Amendment to the Report and Decision on the Lafayette Place Project" be and hereby is approved and adopted.

BOSTON REDEVELOPMENT AUTHORITY

Report and Decision on Application for
Approval of a Fourth Amendment to the
Report and Decision on the Lafayette Place Project

A. Authority Action. Before making the findings and determinations hereinbelow set forth and approving the Application the Authority has considered the Application itself, all documents and exhibits filed with it or referred to in it and the arguments and statements made before the Board of the Authority.

Based on the foregoing, the Authority makes the following findings and determinations.

The Project. The Project is commonly known as Lafayette Place. It is located in two air rights parcels, Parcel A and Parcel B, bounded generally by Washington Street, Avenue de Lafayette, Chauncy Street and the northerly line of Avon Street (discontinued) in Boston. The Project, currently in the completion stage, consist of approximately 260,000 feet of gross retail mall space and a hotel of 504 rooms and suites, located above a parking garage owned by the City of Boston. The adjacent Parcel C, not included in the Project, is not covered by the Application. The Project and Project Area are more fully described in the Report and Decision of the Authority as amended, by which the Authority authorized and approved the Project under Chapter 652 of the Acts of 1960 as amended. The Report and Decision was duly adopted by the Authority on September 6, 1979, and was duly amended by

the Authority on April 3, 1980, February 19, 1983 and March 31, 1983. The Mayor of the City of Boston, approved these votes of the Authority on September 27, 1979, April 17, 1980, March 1, 1983 and April 15, 1983, respectively. Certificates of these votes and mayoral approvals were filed with the office of the City Clerk by the Secretary of the Authority on October 3, 1979, April 23, 1980, March 3, 1983 and April 9, 1983.

Lafayette Place Hotel Associates and Swiss Affiliates.

The approvals referenced above include the approval by the Authority on September 6, 1979 that the hotel portion of the Project be transferred from Lafayette Place Associates to a separate limited partnership, Lafayette Place Hotel Associates. The transfer took place on November 2, 1984. Thereafter, SNH Boston, Inc., a Massachusetts corporation affiliated with Swissair, Swiss Air Transport Company Ltd. and Nestle Ltd., was admitted as a general partner of Lafayette Place Hotel Associates, with Mondev Mass., Inc., an affiliate of Mondev International Ltd., remaining as the other general partner (Sefrius Corp., also an affiliate of Mondev International Ltd., withdrew as general partner).

At the same time, Lafayette Place Hotel Associates entered into a lease of the Lafayette Place Hotel to Swissotel Boston, Inc., a Massachusetts corporation, also affiliated with Swissair, Swiss Air Transport Company Ltd. and Nestle Ltd. The lease provides that Swissotel will manage the hotel for a period of 20 years, subject to three

five year renewals thereafter. Rent under the lease will constitute the gross income of the owner relating to the hotel under Section 10 of Chapter 121A. A copy of the lease is included as an exhibit to the Application. The proposed lessee of the hotel, Intercontinental Hotels Corporation, withdrew from the development on July 27, 1984.

No Changes in the Project. It is not proposed by the Application that there be any changes in the Project or the plan for the Project as previously authorized and approved by the Authority.

Effect on Environment. Because the Application requests no change in the Project, there will be no effect upon the environment as a result therefrom.

Construction, Maintenance and Management of the Project. On October 12, 1979, Lafayette Place Associates entered a contract with the City of Boston pursuant to Sections 6A and 14 of Chapter 121A for the carrying out of the hotel portion of the Project as approved by the Authority. This contract required Lafayette Place Associates and its successors and assignees to carry out the Project by constructing, maintaining and managing the same in accordance with its Application; in accordance with the provisions of Chapter 121A of General Laws, Chapter 652 of the Acts of 1960, the Rules and Regulations of the Authority, and the Minimum Standards for the Financing, Construction, Maintenance and Management of the Project; and also in accordance with the Report and Decision of the Authority approving the Project.

Lafayette Place Hotel Associates has agreed to assume all obligations of Lafayette Place Associates under the above-described contracts with the City of Boston, except for the obligation to complete construction which will be retained by Lafayette Place Associates. The form of an agreement by Lafayette Place Associates and Lafayette Place Hotel Associates with the City and the Authority to this effect is attached to the Application.

Conclusion. The Authority hereby ratifies and confirms its approval given on September 6, 1979, permitting the transfer of the hotel portion of the Lafayette Place Project to Lafayette Place Hotel Associates, as described in the Deed dated November 1, 1984 from Lafayette Place Associates to Lafayette Place Hotel Associates.

The Authority hereby finds that the participation in Lafayette Place Hotel Associates of SNH Boston, Inc., as general partner, will enhance the ability of Lafayette Place Hotel Associates to perform the obligations and carry out the duties imposed by Chapter 121A on the Project, and complies with each and every applicable requirement of Chapter 121A of the General Laws, as amended, Chapter 652 of the Acts of 1960, as amended, and the applicable Rules and Regulations of the Authority.

The Authority also approves Swissotel Boston, Inc. as the lessee of the Lafayette Place hotel and the substitution of the lease filed as Exhibit 3 to the Application for the lease filed with the original application.

December 17, 1984

APPLICATION OF LAFAYETTE PLACE ASSOCIATES AND LAFAYETTE PLACE HOTEL ASSOCIATES, FOR APPROVAL OF A FOURTH AMENDMENT TO THE REPORT AND DECISION OF THE BOSTON REDEVELOPMENT AUTHORITY AUTHORIZING AND APPROVING THE LAFAYETTE PLACE PROJECT UNDER MASSACHUSETTS GENERAL LAWS CHAPTER 121A AND St. 1960, c. 652, AS AMENDED.

The undersigned, Lafayette Place Associates and Lafayette Place Hotel Associates, (the "Applicants"), hereby apply to the Boston Redevelopment Authority (the "Authority") pursuant to Chapter 121A of the General Laws, Chapter 652 of the Acts of 1960 and the Rules and Regulations issued by the authority for approval by the Authority of a Fourth Amendment to the Report and Decision approved by the Authority on September 6, 1979 as amended by a First Amendment to the Report and Decision approved by the Authority on April 3, 1980, a Second Amendment to the Report and Decision approved by the Authority on February 19, 1983, and a Third Amendment to the Report and Decision approved by the Authority on March 31, 1983.

By this application, the Applicants request the following specific changes to the Report and Decision, as amended:

1. Substitute SNH Boston, Inc. for Sefrius Corp. as the Co-General Partner of Lafayette Place Hotel Associates. The approvals referenced above include an approval that the hotel portion of the Project be transferred from Lafayette Place Associates to a separate limited partnership, Lafayette Place Hotel Associates. The transfer took place on November 2, 1984. Thereafter, Sefrius Corp. withdrew as General Partner of Lafayette Place Hotel Associates, and SNH Boston, Inc., a Massachusetts corporation affiliated with Swissair, SwissAir Transport Company Ltd. and Nestle Ltd., was admitted as a general partner of Lafayette Place Hotel Associates. The Second Amendment to the Certificate of Limited Partnership of Lafayette Place Hotel Associates showing the admission of SNH Boston, Inc. is annexed hereto as Exhibit 1. The proposed form of an agreement with the City of Boston and the Boston Redevelopment Authority evidencing the assignment to Lafayette Place Hotel Associates and the assumption by Lafayette Place Hotel Associates of rights and obligations under c. 121A of the hotel portion of the Project is annexed hereto as Exhibit 2. The ability of Lafayette Place Hotel Associates to perform the obligations and carry out the duties imposed by Chapter 121A on the Project is enhanced by this change.

2. Substitute Exhibit 3 attached hereto and made a part hereof for Exhibit 10 of the original Application, incorporated by reference in the Report and Decision. Exhibit 3 is the lease of the Lafayette Place hotel to Swissotel Boston, Inc., a Massachusetts corporation also affiliated with Swissair, SwissAir Transport Company Ltd. and Nestle Ltd. The lease provides that Swissotel will manage the hotel. Rent under the lease will constitute the gross income of the owner relating to the hotel under Section 10 of Chapter 121A. The proposed lessee of the hotel, Intercontinental Hotels Corporation, withdrew from the development on July 27, 1984.

Executed this seventeenth day of December, 1984.

LAFAYETTE PLACE ASSOCIATES

LAFAYETTE PLACE HOTEL ASSOCIATES

By *[Signature]*

December 17, 1984

Then personally appeared before me *[Signature]*, who being duly sworn, made oath to the best of his knowledge and belief the statements contained in the foregoing Application are true.

Laura M. Pateraudé
Notary Public

My commission expires:

RECEIVED

LAFAYETTE PLACE HOTEL ASSOCIATES

NOV 5 1984

SECOND AMENDMENT TO THE
CERTIFICATE OF LIMITED PARTNERSHIP

SECRETARY OF STATE
CORPORATION DIVISION

We, the undersigned, hereby execute and file this Second Amendment to the Certificate of Limited Partnership of Lafayette Place Hotel Associates in order to amend the Certificate of Limited Partnership of Lafayette Place Hotel Associates filed on June 20, 1979, as previously amended by a First Amendment to the Limited Partnership Agreement and to the Certificate of Limited Partnership filed on March 1, 1982, to evidence the withdrawal of Sefrius Corp. (originally Cofius Corp.) as General Partner and David E. Rideout as Limited Partner, the admission of SNH Boston, Inc., a Massachusetts corporation, as General Partner of the Partnership, the admission of Lafayette S-M, Inc., a Massachusetts corporation, as Limited Partner, the continuation of the business of the Partnership, and to delete Articles II, III, IV, V, VI, XI, XIII of the Certificate, as heretofore amended, and substitute the following Articles in their place:

II. The character of the business of the Partnership is to acquire certain property and property rights commonly known as the Lafayette Place hotel (the "Hotel"), on Avenue de Lafayette, Boston, Massachusetts, and, without limitation, to continue the construction of and manage, maintain and operate thereon a hotel and to conduct any activities relating thereto.

III. The address of the principal office of the Partnership is Avenue de Lafayette, Boston, Massachusetts 02111, or such other place or places as the General Partner may from time to time designate by notifying all other Partners. The name and address of the agent for services of process is:

The Prentice-Hall Corporation System, Inc.
84 State Street
Boston, Massachusetts 02109
Attention: Thomas Murphy

IV. The name and business address of each Partner, the General Partners and Limited Partner being respectively designated, are as follows:

GENERAL PARTNERS:

Mondev Mass., Inc.
Avenue de Lafayette
Boston, Massachusetts 02111

SNH Boston, Inc.
c/o Fink, Weinberger, Fredman,
Berman & Lowell, P.C.
551 Fifth Avenue
New York, New York 10176

LIMITED PARTNER:

Lafayette S-M, Inc.
Avenue de Lafayette
Boston, Massachusetts 02111

- V. The term for which the Partnership is to exist is to December 31, 2079, unless sooner terminated or dissolved upon the first to occur of any of the following events:

(i) the sale of all of the assets of the Partnership;

(ii) the written consent of the General Partners to dissolve the Partnership;

(iii) the occurrence of any of the following events with respect to a General Partner: the death, insanity, or adjudication of incompetency of an individual General Partner, the liquidation or dissolution (without immediate reconstitution) of a corporate or partnership General Partner, the termination of a General Partner which is a trust, or the retirement, resignation, expulsion, assignment for the benefit of creditors, or an Insolvency Event (as defined below) with respect to a General Partner, unless the Partnership is continued by the remaining General Partners and notice thereof is given to the Limited Partners or, if there is no remaining General Partner, all the Partners within 90 days of such event agree to reconstruct and carry on the business of the Partnership and appoint one or more General Partners.

A General Partner (hereinafter referred to as the "Defaulting Partner") shall have suffered the occurrence of an Insolvency Event if such General Partner:

- (a) shall institute proceedings to be adjudicated a voluntary bankrupt or insolvent, or shall consent to the institution of a bankruptcy or insolvency proceeding against it, or shall file a petition or answer or consent seeking

reorganization or relief or a declaration of cessation of payment under the applicable laws of bankruptcy or insolvency; or shall consent to the filing of any such petition; or

- (b) shall have entered against it a decree or order of a court having jurisdiction adjudging it a bankrupt or insolvent or approving a petition seeking reorganization, settlement, arrangement, adjustment or composition of or in respect of it under the applicable laws of bankruptcy or insolvency and such decree shall have remained in force and undischarged or unstayed for a period of thirty (30) days; or
- (c) shall have entered against him a decree or order of a court having jurisdiction for the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency or of all or substantially all of its property or for the winding up or liquidating of its affairs, and such decree or order shall have remained in force undischarged or unstayed for a period of thirty (30) days; or
- (d) shall make an assignment for the benefit of creditors, shall admit in writing its inability to pay its debts generally as they become due or shall consent to the appointment of a receiver or liquidator or trustee or assignee or other similar official in bankruptcy or insolvency of it or of all or substantially all of its property.

VI. The amount of cash and a description and statement of the agreed value of property contributed by each Partner is as follows:

Mondev Mass., Inc. (General Partner): \$5,000,000 (in property interests in the Hotel described in Article II hereof).

SNH Boston, Inc. (General Partner): \$5,000,000.

Lafayette S-M, Inc. (Limited Partner): \$100.00.

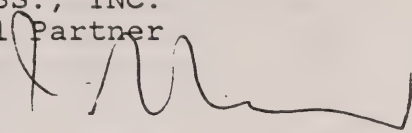
The Partners have not agreed to contribute to the Partnership in the future except by means of loans or advances by the General Partners to the Partnership for cash requirements of the Partnership, if any.

XI. The General Partners have the right to admit additional Limited Partners.

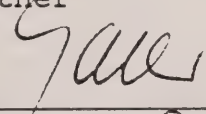
XIII. The remaining General Partner or General Partners have the right to continue the Partnership business on the occurrence of one or more of the events described clause (iii) of Article V above.

IN WITNESS WHEREOF, we have caused this Second Amendment to the Certificate of Limited Partnership to be duly executed and filed this 3rd day of November, 1984.

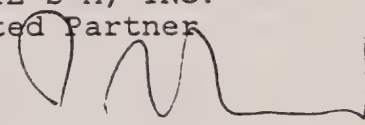
MONDEV MASS., INC.
As General Partner

By 
I.R. RANSEN, ITS PRESIDENT

SNH BOSTON, INC.
As General Partner

By 
HEINZ GALLI, ITS VICE PRESIDENT

LAFAYETTE S-M, INC.
As Limited Partner

By 
I.R. RANSEN, ITS PRESIDENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT made as of this _____ day of December, 1984, under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and every other provision of law hereto enabling, by and among Lafayette Place Hotel Associates, a Massachusetts limited partnership, hereinafter called "the Succeeding Owner", Lafayette Place Associates, a Massachusetts limited partnership, hereinafter called "the Original Owner", the Boston Redevelopment Authority, hereinafter called "the Authority" and the City of Boston, hereinafter called "the City".

WITNESSETH THAT:

WHEREAS, the Authority voted on September 6, 1979 to authorize and approve an urban redevelopment undertaking (hereinafter called "Lafayette Place") to be located on two air rights parcels on Washington Street in Boston, Massachusetts, making all the findings required for such authorization and approval under General Laws, Chapter 121A, and the Acts of 1960, c. 652, § 13, and thereafter on April 3, 1980, February 19, 1983 and March 31, 1983, the Authority voted to approve, respectively, the First Amendment, Second Amendment and Third Amendment to the initial Report and Decision; the Mayor of the City of Boston, approved these votes of the Authority on September 27, 1979, April 17, 1980, March 1, 1983 and April 15, 1983, respectively, and certificates of these votes and mayoral approvals were filed with the office of the City Clerk by the Secretary of the Authority on October 3, 1979, April 23, 1980, March 3, 1983 and April 9, 1983; and

WHEREAS, the above-referenced approvals included an approval that the hotel portion (hereinafter called the "Project") of Lafayette Place, located on Parcel A of the air rights, be transferred from the Original Owner to the Succeeding Owner in order to separately finance the Project, and this transfer took place on November 2, 1984; and

WHEREAS, the Original Owner on November 30, 1979 entered into a Regulatory Agreement (hereinafter called the "Regulatory Agreement") with the Authority pursuant to G.L. c. 121A, Section 18C, for Lafayette Place; and

WHEREAS, the Original Owner on October 12, 1979 entered into a contract (the "Contract") with the City pursuant to G.L. c. 121A, §§ 6A and 14, for the Project.

NOW, THEREFORE, the Original Owner, the Succeeding Owner, the City and the Authority each in consideration of the mutual agreements herein made by each of the others of them, hereby agree with each of the others as follows:

1. The Original Owner hereby assigns to the Succeeding Owner all of its right, title, and interest in and to the Contract and in and to the Regulatory Agreement as it relates to the Project.

2. The Succeeding Owner hereby accepts such assignment and agrees for itself, its successors, and assigns to perform and abide by all of the obligations of the Original Owner under the Contract and under the Regulatory Agreement as it relates to the Project, from and after the date hereof, including but not limited to the obligation to pay the City as taxes the amounts specified in the Contract, but not including the obligation to complete the construction of the Project.

3. The Original Owner is hereby released and discharged by the City and Authority from any and all claims and obligations under the Contract and the Regulatory Agreement as it relates to the Project, from and after the date hereof, except the obligation to complete construction of the Project.

4. The Contract and Regulatory Agreement, except as provided above, are hereby ratified and confirmed.

EXECUTED as a sealed instrument the day and year first above written.

LAFAYETTE PLACE ASSOCIATES

By Mondev Mass., Inc.
General Partner

by _____

LAFAYETTE PLACE HOTEL ASSOCIATES

By Mondev Mass., Inc.
General Partner

by _____

By SNH Boston, Inc.
General Partner

by _____

CITY OF BOSTON

by _____
Mayor

BOSTON REDEVELOPMENT AUTHORITY

by _____
Director

Dated November 3, 1984

This instrument is a lease between LAFAYETTE PLACE HOTEL ASSOCIATES (hereinafter called the "Owner"), a limited partnership organized and existing under the laws of the Commonwealth of Massachusetts, whose general partners are SNH Boston, Inc., a Massachusetts Corporation, and Mondev Mass., Inc., a Massachusetts corporation, and SWISSOTEL BOSTON, INC. (hereinafter called "TENANT") a corporation organized and existing under the laws of the Commonwealth of Massachusetts, a wholly owned subsidiary of Swissôtel Management Corporation (hereinafter called "SMC"), a corporation organized and existing under the laws of the State of Delaware.

WHEREAS, Owner is building, equipping and furnishing a first-class international hotel in Boston, Massachusetts, and desires to have this hotel leased and operated by Tenant, and

WHEREAS, Swissair Nestlé Swissôtel, Ltd., a Swiss Corporation, (hereinafter called "Swissôtel"), desires to make the hotel part of the international chain of first-class hotels directly or indirectly operated by it, and

WHEREAS, it is the intention of the parties to create by means of this Lease the basis for a fruitful, long-lasting relationship with respect to said hotel, and

WHEREAS, to achieve these objectives Owner will complete said Hotel in accordance with the specifications approved by Swissôtel, and Tenant will use its diligent efforts to assure hotel services compatible with traditional Swiss hospitality.

NOW, THEREFORE, the parties agree as follows:

PRELIMINARY

The Appendices attached to this Lease form an integral part hereof.

For purposes of this Lease the terms listed below will have the meaning given to them in Appendix 1 hereto:

- Adjusted Gross Operating Profit -
- Ancillary Equipment
- Building
- Capital Expenditures
- Duration
- FF+E (Furniture, Fixtures and Equipment)
- Fiscal Year
- Fixed Charges
- Gross Operating Profit or Gross Operating Losses
- Gross Revenue
- Hotel
- Opening Date
- Operating Equipment
- Operating Expenses
- Operating Supplies
- Permitted Exceptions
- Rent
- Site

Article 1: LEASE OF THE HOTEL

1.1. The Owner hereby leases to Tenant the Hotel presently under construction on the Site at the corner of Avenue de Lafayette and Chauncy Street in Boston, Massachusetts, U.S.A.. The Hotel is located within the Lafayette Place complex (hereinafter called "Lafayette Place") and above, below and adjacent to approximately 260,000 gross square feet of the Lafayette Place retail shopping mall (hereinafter called "Retail Mall") and is more fully described in the Deed dated ~~October~~ ^{November 1,} 1984 from Lafayette Place Associates to the Owner.

Tenant shall have, as appurtenant to the Hotel, rights to use in common with others entitled thereto and subject to reasonable rules and regulations therefore relating to Lafayette Place approved by the Owner: The public facilities included in Lafayette Place, including common walkways, malls, lobbies, means of ingress and egress, stairways and elevators except for those spaces serving only the commercial and retail areas of Lafayette Place; the Lafayette Place parking facility, to the extent of space reserved therein for Hotel parking as provided in the Deed and Agreement dated September 11, 1979 between the City of Boston and Lafayette Place Associates, as amended; and the mechanical facilities, pipes, ducts, conduits, wires and appurtenant equipment serving the Hotel.

1.2. Nothing contained in this Lease shall constitute or be construed to be or create a partnership or joint venture between the Owner, its successors or permitted assigns, and Tenant, its successors or permitted assigns, nor shall the Owner be liable for any debts incurred by Tenant in the conduct of Tenant's business or otherwise, except as provided herein; but it is understood and agreed that the relationship is and at all times shall remain that of landlord and tenant.

Article 2: RIGHTS AND OBLIGATIONS OF THE OWNER WITH RESPECT TO
THE HOTEL

- 2.1. As of the date of this Lease, the Owner and Tenant agree that the Building is substantially complete. Owner agrees to complete the Building in accordance with plans and specifications of Owner and to provide the items of FF+E, Operating Equipment and Ancillary Equipment presently in the Hotel or on order (which have been reviewed and approved by Tenant) and additional items in accordance with Appendix 2 of this Lease. Tenant has satisfied itself that, when such items are provided, the Hotel will meet the standards required by Swissôtel. Within thirty (30) days from the Opening Date Tenant will provide Owner with a "punch list" of defects, variances, missing items and incomplete work with regard to any of the foregoing and Owner shall arrange for such defects, variances, missing items and incomplete work to be corrected or completed.
- 2.2. No later than six (6) months after the Opening Date, the Owner will deliver to Tenant a complete list of the original FF+E installed in the Hotel, together with a schedule of the installed cost thereof and copies of all purchase orders and corresponding invoices relating thereto.
- 2.3. For the Duration of this Agreement Owner will make available sufficient working capital to ensure the uninterrupted and efficient operation of the Hotel. The working capital is property of the Owner and any interest earned thereon shall be credited to Gross Revenue. The parties have agreed that \$ 450,000.- (four hundred and fifty thousand dollars) shall be required for the initial working capital, which amount will be paid by Owner to Tenant thirty (30) days prior to the Opening Date, but no later than February 28, 1985.

- 2.4. Owner hereby covenants that from and after the Opening Date it will have and maintain title to the Hotel and every part thereof or the leasehold estate in same, and every right and easement appurtenant thereto, such that there will be no impairment of Tenant's rights under this Lease. use best efforts to Owner shall cause the owner of the Retail Mall not to commit or suffer to be committed any waste upon Lafayette Place or any public or private nuisance, or other act or thing which may disturb the quiet enjoyment of any occupants of the Hotel, nor use any apparatus, machinery or device in or about the Retail Mall which shall cause any damage to the Hotel.
- 2.5. Owner will not impair, and will cooperate with tenant in the taking of whatever action and the execution of whatever document necessary to ensure that the Hotel can be operated in complete accordance with the provisions of this Lease without interruption or interference. Owner will negotiate in good faith with the Retail Mall and other parties having an interest in Lafayette Place with respect to agreements required for the sharing or allocation of costs for common spaces and services.
- 2.6. Duly-authorized representatives of Owner have free access to the Hotel at any time. Prior notice of visits should be given to the Manager and the operation of the Hotel should not be unduly disturbed by such visits. If Owner requires the exclusive use of space within the Hotel, then Owner will pay a reasonable rent which will be considered Gross Revenue and which, if not paid upon receipt of invoice, may be deducted from the Rent.

Article 3: PREOPENING AND OPENING OF THE HOTEL

3.1. The Opening Date shall be March 1, 1985 or such later date agreed to by the parties in the event the Hotel should not be substantially completed as provided in ~~Article 2.1. of this Lease~~ by March 1, 1985, ~~Until such time as there are office facilities available in the Hotel,~~ Owner will provide adequate office facilities for the Manager and staff of the Hotel in the proximity of the Site.

Until such time as there are office facilities available in the Hotel, but in no event beyond the Opening Date,

3.2. The cost of the preopening and opening activities are to be borne by Owner. The preopening and opening expenses shall be in accordance with the plan and budget heretofore approved by the parties and shall not exceed the aggregate amount of \$ 1,500,000.- (one million five hundred thousand dollars), including the cost of opening ceremonies. This amount is payable in four (4) equal monthly installments, the first of which will be due within five (5) days from the date of this Lease and the remaining on the first day of December 1984 and January and February 1985. If the Opening Date is postponed beyond March 1, 1985, Owner will continue to make the monthly payments until the month of the opening of the Hotel to the public.

3.3. The Hotel may be used prior to the Opening Date for training and promotional activities. The income, if any, from such preopening activities will be credited to the preopening account.

3.4. Within one hundred and twenty (120) days after the Opening Date, Tenant will submit to Owner an accounting of the preopening expenses and income and will remit to Owner any favorable balance in the account. In

Exhibit G of the Second Amendment of Limited Partnership Agreement dated November 3, 1984, attached to this Lease as Appendix 3

but in the absence of such agreement, the Opening Date shall be the date on which the items described in Appendix 3 are completed.

the event preopening expenses approved by the parties exceed the amount described in Article 3.2., Tenant will be reimbursed its advances by charges against Gross Revenue of the First Fiscal Year to the extent such charges do not result in a Gross Operating Loss; any remaining balances of the advances of Tenant will be reimbursed by charges against Gross Revenue in subsequent Fiscal Years.

Article 4: OPERATION OF THE HOTEL BY TENANT; COVENANTS OF TENANT

- 4.1. The Hotel will be managed and operated by Tenant as a first-class international hotel. The standards applied will be compatible with Swiss hospitality. The Hotel will have an individual and, to a certain extent, local character.
- 4.2. Tenant will have exclusive discretion with respect to all operational matters relating to the Hotel, including:
- the hiring and firing of the personnel of the Hotel,
 - the determination of labor policy with respect to salaries and wages, fringe benefits, working conditions and collective bargaining agreements,
 - the determination of the pricing policy, with respect to room, food and beverage, entertainment and other services, including the granting of rebates and other privileges customary in international hotels,
 - the determination of the marketing, sales advertising and publicity programs,
 - the conditions under which personnel of the Hotel, SMC, Swissôtel or of companies associated with SMC or Swissôtel receive Hotel services

(but the receipt of such services shall only be in accordance with usual practices of first-class international hotels),

- the granting of concession and lease agreements for stores, exhibition rooms, theatres, movie theatre, dancings and discotheques, travel bureaus and other hotel facilities with respect to which it is customary to grant such concessions or leases,
- the opening and closing of bank accounts, the signing of purchase and sales contracts, the defense against, instituting of and settlement of legal proceedings (with counsel reasonably approved by the Owner), the negotiations with government agencies, the appointment of agents, all as required in connection with the operation of the Hotel.

4.3. The Manager designated by Tenant will be introduced to Owner prior to his appointment, and Tenant will refrain from such appointment if Owner submits objections in writing to Tenant within twenty (20) days after the Manager was introduced and such objections have a reasonable basis.

4.4. Owner will direct comments and criticism of the Hotel operation to a person designated by Swissôtel and failing such designation to the Manager. The Manager of the Hotel and, at Owner's request, executives of SMC and/or Swissôtel will meet with Owner at regular intervals, or as the need arises, to discuss all matters of mutual interest and to give Owner every opportunity to comment on or criticize the Hotel operation.

4.5. Tenant hereby covenants and agrees as follows:

- (a) The Hotel shall be used and occupied by Tenant only for purposes
 - customarily carried on in first-class international hotels.

- (b) Tenant will not place on the exterior of exterior walls (including both interior and exterior surfaces of windows and doors) or on any part of Lafayette Place outside the Hotel, any signs, symbols, advertisement or the like visible to public view outside of the Hotel without the prior consent of the Owner, which consent will not be unreasonably withheld.
- (c) Tenant shall comply with all rules, orders and regulations of governmental authorities now or hereafter in force and with any lawful direction of any public officer, in each case to the extent the same are applicable to the use and maintenance of the Hotel. If Tenant receives notice of any violation of law, ordinance, order or regulation applicable to the Hotel or the use and maintenance thereof, it shall give prompt notice thereof to the Owner.
- (d) Tenant shall not place a load upon any floor of the Hotel exceeding the load notified by Owner to Tenant which such floor was designed to carry or that which is allowed by law, whichever is less. The Owner reserves the right to limit the weight of safes and other heavy objects and to designate their position.
- (e) Tenant shall not commit or suffer to be committed any waste upon the Hotel or any public or private nuisance, or other act or thing which may disturb the quiet enjoyment of any other occupants of Lafayette Place nor use any apparatus, machinery or device in or about the Hotel which shall cause any damage to the Hotel or Lafayette Place.
- (f) The electricity, gas and water furnished to the Hotel shall be separately metered. Tenant shall pay directly to the supplier of electricity, gas and water within thirty (30) days of invoice therefor, the entire cost of such electricity, gas and water consumed in the

Hotel. Tenant shall not, without the Owner's written consent in each instance, which consent will not be unreasonably refused, make other than minor alterations or additions to the electrical system of the Hotel.

- (g) Tenant shall continuously occupy the Hotel during the Duration, subject to temporary interruptions for causes beyond Tenant's reasonable control. Tenant shall comply and shall cause its employees and agents to comply with reasonable rules for the regulation of the remainder of Lafayette Place.
- (h) All alterations, additions and improvements made by Tenant to the Hotel shall remain therein and, at the termination of the Lease, shall be surrendered as a part thereof.
- (i) Tenant will not do or permit anything to be done in or upon the Hotel, or bring in anything or keep anything therein, which shall invalidate or be in conflict with insurance coverage maintained by or for the Owner with respect to the Hotel.

Article 5: SWISSOTEL SERVICES

5.1. Tenant will cause SMC to make available to the Hotel operation the accumulated experience and "know-how" of Swissôtel and/or SMC in hotel management and such policies and procedures issued from time to time by Swissôtel which will determine how the Hotel is to be operated as a first-class international hotel in accordance with Swissôtel standards. Tenant will permit Swissôtel and SMC to supervise and support the Manager in order to make sure that the Hotel will be operated in accordance with the policies and procedures issued by Swissôtel. Tenant

will provide SMC and/or Swissôtel with reports periodically prepared by the Hotel and will cause SMC to analyze such reports or to have them analyzed by Swissôtel and to advise or instruct the Manager to make sure that the objectives set in the marketing plan and budget of the Hotel are met.

5.2. Tenant will cause SMC and Swissôtel to place their marketing organizations at the disposal of the Hotel to assist the Hotel in the realization of the sales objectives set by its marketing plan. The services of the marketing organizations will include:

- sales assistance by the sales representatives of SMC in the U.S.A. and of Swissôtel throughout the world,
- advertising and promotional programs for hotels associated with Swissôtel,
- preparation of brochures and other printed sales aids in accordance with design standards of Swissôtel,
- organization of familiarization programs for wholesalers, travel agents and other customer groups.

5.3. Tenant will cause Swissôtel to integrate the Hotel in its reservation service if and when introduced. Charges will be made to the Hotel for each transaction at cost without profit based on the experience of Swissôtel during prior years.

5.4. Tenant will cause SMC and Swissôtel to accept supervisory personnel of the Hotel to training courses and seminars organized by SMC and/or Swissôtel so that such personnel can adequately train the rank and file of the Hotel and ensure a continued maintenance of Swissôtel standards

of services.

5.5. Tenant will permit personnel of SMC and Swissôtel to continuously supervise the operational and administrative procedures and work processes and the financial controls of the Hotel including:

- control of the receivables and accounts payable (credit and collection),
- purchasing and receiving of merchandise and services required by the Hotel operation,
- establishment of accounting methods and, where appropriate, introduction and use of electronic data processing equipment.

5.6. Tenant will cause SMC and Swissôtel to make available to the Hotel the services of internal and external experts in the areas of marketing, technical services, rooms division, personnel administration, training, decoration, food and beverage, purchasing, accounting and other operational functions of the Hotel in order to assure an efficient Hotel operation in accordance with the standards of Swissôtel. The services of these experts will include:

- preparation of studies on the economic justification of alterations, additions and improvements,
- planning and execution of alterations, additions and improvements,
- preparation of studies on the adequacy and fuel-economy of technical installations,
- preparation of restaurant concepts,
- development of Hotel internal training programs,
- development and introduction of electronic data processing systems.

5.7. SMC and Swissôtel may render services themselves or through affiliated

companies or other hotels in the Swissôtel Group, and charges will be made accordingly. If more than one hotel benefits from the rendering of the services, the cost will be allocated to these hotels on an equitable basis. If the Hotel renders services to other members of the Swissôtel Group, it is entitled to reimbursement of the cost of such services from the hotel receiving such services.

5.8. Tenant will retain two percent (2%) of Gross Revenue (the "First Retainage") in consideration for rendering ^{all of its} services hereunder and for causing Swissôtel and SMC to make available the accumulated experience of SMC and Swissôtel, the policies issued from time to time by Swissôtel, and routine supervisory and advisory activities. The actual cost, without profit, of all other services provided by Swissôtel and/or SMC or any of their affiliated companies or hotels of the Swissôtel Group will be reimbursed by Tenant as invoiced, provided that such charges in any Fiscal Year do not exceed one and one half percent (1 1/2%) of Gross Revenue.

5.9. Tenant will arrange that Swissair, Swiss Air Transport Company Ltd., hereinafter called "Swissair", will, to the extent legally possible, include the Hotel in its sales organization. Tenant will cause Swissôtel to distribute brochures and other printed sales aids of the Hotel in the sales organization of Swissair and to arrange that the Hotel will be included in any hotel reservation system operated by Swissair.

Article 6: RENT

6.1. Tenant agrees to pay the Owner Rent in an amount equal to the greater of the amounts described in subsections (a) and (b), below.

(a) A minimum annual rental payment of \$ 300,000.- for each Fiscal Year commencing with the fourth full Fiscal Year after the Opening Date and continuing through the fifteenth full Fiscal Year after the Opening Date.

(b) A percentage rent with respect to each Fiscal Year equal to the Gross Operating Profit for such Fiscal Year less a retainage for Tenant of an amount equal to twenty-five percent (25%) of Adjusted Gross Operating Profit (the "Second Retainage"). For purposes of calculating such Second Retainage, the debt service deduction included in Fixed Charges shall be limited to the debt service initially agreed to between Owner and the lender of a loan not to exceed \$ 50,000,000.- (fifty million dollars). Tenant will pay to Owner 50% (fifty percent) of such Second Retainage up to an aggregate amount of \$ 900,000.- (nine hundred thousand dollars), less any refunds made by Tenant as provided in Article 3.4 of the Lease in reimbursement of certain preopening cost as provided in Section 9.02 of the Second Amendment to Limited Partnership Agreement for Lafayette Place Associates, provided, however, that in the event Owner receives as a result of a sale or syndication of the Hotel or the refinancing of any mortgage thereon net proceeds in an amount sufficient to pay the Owner all or part of such \$ 900,000.- (nine hundred thousand dollars) as provided in said Agreement, then such aggregate amount Tenant will have to pay to Owner will be reduced accordingly.

6.2. All funds derived from the operation of the Hotel shall be deposited in an operating account in a bank or in banks approved by Owner. Tenant shall have no liability or responsibility for any loss resulting from the insolvency, malfeasance or nonfeasance of the bank or banks in which such funds are deposited. All checks for the withdrawal of funds from the operating account shall bear the signature of such signatory or signatories as Tenant shall designate.

6.3. Calculations on an accrual basis, and corresponding deposits of Rent by the Tenant in a deposit rental account in a bank designated by Owner (the "Rent Deposit Account"), shall be made with respect to each month on or before the thirtieth (30th) day of the next month and shall be accounted for cumulatively within the Fiscal Year. Any adjustments required to the Fiscal Year accounting shall be made promptly by the parties. Computation of Gross Operating Profit and Adjusted Gross Operating Profit shall be made separately with regard to such Fiscal Year.

Article 7: ACCOUNTING, BUDGETING AND FINANCES

7.1. The books and records of the Hotel must be kept in accordance with accounting practices considered acceptable in the international hotel industry (such as the "Uniform System of Accounts for Hotels") and will in all respects adequately reflect the operation of the Hotel. Subject to applicable local laws and regulations, the books and records of the Hotel will be kept in conformance to uniform standards prevailing in all hotels forming part of the Swissôtel Group.

7.2. Tenant will have an annual budget of the Hotel operation, including a Capital Expenditures budget, prepared for each coming Fiscal Year. Tenant will provide Owner with a copy of the budget, not later than November fifteenth (15th) of any year, and will discuss the budget with Owner at Owner's request.

7.3. The Capital Expenditures budget will include any budgeted Capital Expenditures for the coming Fiscal Year (other than those described in Article 10.3. hereof). Owner will approve the Capital Expenditures budget within thirty (30) days after it has been submitted or will advise Tenant of his objections, giving the reasons therefor. In the event of differences of opinion the parties will make every effort to reach a reasonable compromise. In the meantime, Tenant will be authorized to make only those Capital Expenditures which in the opinion of Tenant are indispensable for the continued or safe operation of the Hotel. In the course of a Fiscal Year Capital Expenditures may be made without the approval of Owner, provided the total amount approved for such Fiscal Year is not exceeded, or provided the cost of such additional Capital Expenditures does not exceed thirty thousand dollars (\$ 30,000.-) which amount shall be adjusted annually in accordance with the percentage increase of the average room rate during the preceding year. Approved Capital Expenditures and additional Capital Expenditures within the limits of this Article will be paid for by Owner and, upon failure by him to do so, may be deducted from Rent.

7.4. In determining the Gross Operating Profit for any Fiscal Year, no adjustment will be made on account of a deficiency in prior years except

to the extent such deficiency is due to the Fund for FF+E, in which event such deficiency will be charged against Gross Operating Profit of succeeding Fiscal Years, to the extent available.

7.5. Owner hereby directs Tenant to pay on Owner's behalf the Fixed Charges from the Rent Deposit Account referred to in Article 6.1. of the Lease. Any remaining balances - after providing for accrued but not yet paid such Fixed Charges - shall be disbursed to the Owner on or before the thirtieth (30th) day of each month. Owner shall authorize Tenant exclusively to designate signatories of checks drawn from the Rent Deposit Account.

Article 8: REPORTS

8.1. On or before the thirtieth (30) day of each month, Owner will receive from Tenant a profit and loss statement showing the results of the Hotel operation for the preceding month and the Fiscal Year to date.

8.2. On or before August thirty-first (31st) of each Fiscal Year after the First Fiscal Year, Owner will receive the profit and loss statement signed by the Manager or the comptroller of the Hotel showing the results of the Hotel operation for the first six (6) months of the Fiscal Year.

8.3. Within ninety (90) days after the end of each Fiscal Year, Owner will receive the profit and loss statement certified by an independent public accountant, appointed with the mutual consent of the parties, showing the results of the Hotel operation during the preceding Fiscal Year and the respective share of the parties in the Gross Operating Profit.

8.4. Any objections to the profit and loss statement prepared in accordance with Article 8.3. should be submitted to Tenant within forty-five (45) days from receipt of such profit and loss statement. The objections must be submitted in writing and will give the reasons why they were made. The parties will attempt to settle the objections amicably and expeditiously. If no objections are raised, the profit and loss statement submitted by Tenant in accordance with Article 8.3. will be considered correct for all purposes.

Article 9: THE RIGHT OF THE OWNER TO INFORMATION

Owner can request at any time that copies of reports which are routinely and periodically prepared by Tenant or of parts of the books and records of the Hotel operation be supplied to him. The cost resulting from the preparation of such copies or other information may be charged to the Owner or may be deducted from the Rent.

Article 10: MAINTENANCE, REPAIRS, REPLACEMENTS, ALTERATIONS AND ADDITIONS

10.1. It is the intention of the parties that the Hotel be maintained at all times so that it complies with the standards of first-class international hotels, including standards relating to furnishings, security and service.

10.2. The Hotel is to be maintained in good repair. The costs arising from repair and maintenance are Operating Expenses, provided they are not included in the Capital Expenditures budget.

10.3. For each Fiscal Year an amount will be set aside as if it were an Operating Expense and paid into a separate interest-bearing account over which Tenant shall have full control in accordance with the provisions of this Article. The amounts so set aside will be called "Fund for FF+E". For the first five Fiscal Years the following amounts shall be so set aside:

First Fiscal Year	\$ 250,000.-
Second Fiscal Year	\$ 300,000.-
Third Fiscal Year	\$ 350,000.-
Fourth Fiscal Year	\$ 450,000.-
Fifth Fiscal Year	\$ 550,000.-

For the following Fiscal Years, beginning with the Sixth Fiscal Year the amount so set aside for the Fifth Fiscal Year shall be adjusted each year by the same percentage by which the average room rate of the Hotel changed during the immediately preceding Fiscal Year. Notwithstanding the above, however, the aggregate amount for the Fund for FF+E to be carried forward for each Fiscal Year shall not exceed \$ 1,300,000.- (one million three hundred thousand dollars) which amount, beginning with the Sixth Fiscal Year, shall be adjusted each year by the same percentage as described in the preceding sentence. The Fund for FF+E will be used only for replacements of and additions to FF+E. Items of FF+E no longer required for the operation of the Hotel may be sold or otherwise disposed of by Tenant, and the proceeds of such sale shall be added to the Fund for FF+E. Any replacements of and additions to FF+E will become the property of Owner upon their acquisition. Any

amount remaining in the Fund for FF+E upon expiration or termination of this Lease will be credited or charged to the Gross Operating Profit of the last Fiscal Year.

10.4. Whenever Tenant shall make repairs, alterations, improvements, renewals or replacements in or to the Hotel:

- (a) No material or equipment shall be incorporated in or added to the Building which is subject of or claimed to be subject to any lien, charge, mortgage, or other encumbrance of any kind whatsoever or is subject to any security interest or any form of title retention agreement.
- (b) All installations or work done by or for Tenant shall at all times comply with (i) laws, rules, orders and regulations of governmental authorities having jurisdiction thereof; (ii) order, rules and regulations of any Board of Fire Underwriters, or any other body hereafter constituted exercising similar functions, and governing insurance rating bureaus, (iii) except for routine repairs and maintenance, plans and specifications theretofore submitted to and approved in writing by Owner.
- (c) Tenant shall procure all necessary permits before undertaking any work in the Hotel and shall do all such work in a good and workmanlike manner, employing new materials of good quality and shall defend, save harmless, exonerate and indemnify the Owner from all injury, loss or damage to any person or property occasioned by

such work as a result of a negligent act or omission of Tenant or persons under Tenant's control. Tenant shall cause contractors employed by Tenant to carry workmen's compensation insurance in accordance with statutory requirements and comprehensive public liability insurance and automobile liability insurance covering such contractors on or about the Hotel in amounts reasonably acceptable to the Owner and to submit to Owner, at Owner's request, certificates evidencing such coverage prior to the commencement of and during the continuance of such work.

(d) Tenant and the Owner shall use their best efforts to prevent any liens from being filed against the Hotel which arise from any maintenance, repairs, alterations, improvements, renewals or replacements in or to the Building. They shall cooperate fully in obtaining the release of any such liens.

(e) The FF+E and all changes, repairs, alterations, improvements, renewals or replacements to the Hotel shall be the Property of the Owner.

10.5. Any alterations, additions or improvements which are required by law, ordinance or regulation in effect at the time of the Opening Date will be paid for by Owner at Tenant's request.

10.6. Expenditures made in accordance with the Capital Expenditures budget approved by Owner are not considered Operating Expenses.

Article 11: INSURANCE

11.1. Property Insurance.

The Owner shall for the Duration, at its expense, procure and maintain, upon the Hotel and its furniture, fixtures, Operating Equipment and other contents, insurance against all risks (including but not limited to fire, leakage of water, breakage of glass, robbery, burglary, theft, storm, earthquake and riots) of physical loss or damage under special extended coverage endorsements in use by the Insurance Services Office of Massachusetts, and such additional coverage as is generally insured by Owners of comparable hotels in the Boston area and may be required by institutional mortgage lenders, in amounts equal to the replacements value of the property insured, subject to appropriate co-insurance requirements, as well as insurance against breakdown of boilers and other machinery as customarily insured against, and insurance against theft of and damage to any motor vehicles owned by Owner.

11.2. Operating Insurance.

Tenant will cause to be maintained (a) workmen's compensation, employer's liability or similar insurance in such amounts as may be required under all applicable laws, (b) fidelity and theft insurance, and (c) comprehensive public liability insurance, written on an occurrence basis and including risks arising out of the consumption of food and liquor and broad form contractual liability coverage, insuring against all

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claims for injury to or death of persons or damage to property on or about the Hotel or arising out of the use of the Hotel, the total primary and excess minimum combined (bodily injury and property damage) limit for which shall be US\$ 175,000,000.- (one hundred and seventyfive million dollars). Tenant shall have the right from time to time to increase such minimum limits upon notice to the Owner, provided that any such increase shall provide for coverage in amounts similar to like coverage being carried on like property by large hotel chains. The deductible levels for such insurance shall be satisfactory to the Owner. Tenant shall also maintain business interruption insurance policies provided in accordance with this Article 11.1 shall name Swissôtel, SMC Owner and the General Partners as co-insured. The costs or other expenses of procuring and maintaining such insurance shall be an Operating Expense. Premiums on said insurance policies for more than one year shall be charged pro rata against Gross Revenue over the period of the policies.

11.3. Insurance Premiums.

Tenant may include the insurance coverages set forth in Article 11.2. under such program as SMC and/or Swissôtel may maintain for one or more hotels directly or indirectly operated or managed by them and which provides insurance protection against risks, losses, claims and liabilities contemplated thereby. All policies of insurance provided for in Article 11.2. shall name as co-insureds Tenant, SMC, Swissôtel, the Owner and the General Partners of the Owner, and if required, any mortgage lender of the Hotel, and losses shall be paid to such parties as their respective interests may appear, each with the same effect as if

separately insured. Notwithstanding the foregoing, if a mortgage lender is an institutional lender, and so requires, losses may be made payable to such mortgage lender, or to a bank or trust company qualified to do business in the state where the Hotel is located, in either instance as trustee for the custody and disposition of the proceeds therefrom for the purpose of repairing and restoring the Hotel as provided herein.

11.4. Delivery of Policies.

Each party will deliver the other duplicate originals of all insurance policies required or authorized to be maintained by either party hereunder and, not less than five (5) days prior to the expiration of the said policies, shall arrange for delivery of such new or renewed policies as may be required or authorized hereby. All policies shall provide for a sixty (60) day notice of cancellation clause.

11.5. Compliance with Rules.

The parties agree to comply with all rules, orders, regulations and requirements duly imposed by insurer(s) in connection with the occupancy or operation of the Hotel. If either party shall fail to so comply with any such rules, orders, regulations and requirements, the other party may, but shall be under no obligation to, comply with, fulfill and perform the same, and all sums expended to comply with rules imposed in connection with the insurance described in Article 11.2. (other than Capital Expenditures) shall be deducted from Gross Revenues in the case of Tenant's failure to comply and from Rent in the case of Owner's

failure to comply.

11.6. Risk Advisor.

In the event of a dispute between the parties as to insurance coverage to be provided under this Lease the parties shall jointly appoint an independent risk advisor to advise on the limits and nature of insurance coverage. The cost of said risk advisor shall be on Operating Expense.

11.7. Non-Subrogation.

The Owner and Tenant mutually agree that, with respect to any hazard which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right or subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such premium the amount of such extra premium. If, at the request of one party, this release and non-subrogation provision is waived, then the obligation of reimbursement shall cease for such period of time as such waiver shall be effective. If the release of either party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer.

Article 12: CASUALTY

12.1. Definition of "Substantial Damage" and Partial Damage".

The term "Substantial Damage", as used herein, shall refer to damage which is of such a character that the cost of repairs or restoration of the Hotel, so that it will be substantially the same as prior to such damage, as reasonably estimated by an independent expert agreed upon by Owner and Tenant, exceeds one third of the market value of the Hotel immediately prior to such damage. Any damage which is not Substantial Damage is "Partial Damage".

12.2. Partial Damage to the Hotel.

If during the Duration of this Lease there shall be Partial Damage to the Hotel by fire or other casualty, the Owner shall promptly proceed to repair or restore the Hotel to substantially the condition in which it was immediately prior to the occurrence of such damage.

12.3. Substantial Damage to the Hotel.

If during the Duration of this Lease there shall be Substantial Damage to the Hotel by fire or other casualty, then either the Owner shall promptly repair or restore the Hotel to the extent reasonably necessary to enable Tenant to operate the Hotel as a first class international Hotel, or if Owner fails to undertake the repair or restoration of the Hotel, as aforesaid, within 90 (ninety) days after such casualty, then either party

may terminate this Lease by notice to the other and this Lease shall terminate as of the date of such notice with the same force and effect as if such date were the date originally established as the expiration date hereof.

12.4. Abatement of Rent.

If during the Duration of the Lease the Hotel shall be damaged by fire or casualty and if such damage shall materially interfere with Tenant's use of the Hotel as contemplated by this Lease, an equitable proportion of the minimum rent payable by Tenant hereunder shall abate proportionately for the period in which, by reason of such damage, there is such interference with Tenant's use of the Hotel.

12.5. Miscellaneous.

The Owner shall not be in default hereunder if it is delayed in making repairs under this Article 12. by reason of any cause beyond its reasonable control, including without limitation, the requirements of any applicable laws, rules or regulations.

12.6. Temporary Suspension.

In the event that any damage to or destruction of the Hotel necessitates a temporary suspension of the operation thereof, any and all expenses incurred by Tenant with respect to the Hotel during such temporary suspension shall constitute an Operating Expense hereunder.

Article 13: EMINENT DOMAIN

13.1. Rights of Termination for Taking.

If the Hotel, or such portion thereof as to render the balance (if reconstructed to the maximum extent practicable in the circumstances) physically unsuitable for the purpose leased hereunder, shall be taken by condemnation or right of eminent domain (excluding a temporary taking for not more than eighteen (18) months), the Owner or Tenant shall have the right to terminate this Lease by notice to the other of its desire to do so, provided that such notice is given not earlier than nineteen (19) months after Tenant has been deprived of possession.

Should any part of the Hotel be so taken or condemned and should this Lease not be terminated in accordance with the foregoing provision, the Owner shall promptly after the determination of the Owner's award on account thereof, expend so much as may be necessary of the net amount which may be awarded to the Owner in such condemnation proceedings in restoring the Hotel to an architectural unit that is reasonably suitable to the uses of Tenant permitted hereunder. Should the net amount so awarded to the Owner be insufficient to cover the cost of so restoring the Hotel, in the reasonable estimate of an independent expert agreed upon by Owner and Tenant, the Owner may, but shall have no obligation to, supply the amount of such insufficiency and restore the Hotel to such an architectural unit, with all reasonable diligence, or may terminate this Lease by giving notice to Tenant not later than a reasonable time after the expert has determined the estimated cost of such restoration.

13.2. Payment of Award.

The Owner shall have and hereby reserves and excepts, and Tenant hereby grants and assigns to the Owner, all rights to recover for damages to the Hotel, the air rights on which the same is located, as aforesaid. Tenant covenants to deliver such further assignments and assurances thereof as the Owner may from time to time request, hereby irrevocably designating and appointing the Owner as its attorney-in-fact to execute and deliver in Tenant's name and behalf all such further assignments thereof. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings a claim for the value of any of Tenant's leasehold interest created hereunder and Tenant's usual trade fixtures installed in the Hotel by Tenant at Tenant's expense and for relocation expenses, provided that such action shall not affect the amount of compensation otherwise recoverable hereunder by the Owner from the taking authority. If a portion of the award made to Owner is allocable to condemnation or taking of any interest or property of Tenant such portion shall be promptly paid by Owner to Tenant.

13.3. Abatement of Rent.

In the event of any such taking of the Hotel, the minimum rent, or a fair and just portion thereof, according to the nature and extent of the damage sustained, shall be suspended or abated, as appropriate and equitable in the circumstances.

13.4. Miscellaneous.

The Owner shall not be in default hereunder if it is delayed in making repairs under this Article 13 by reason of any cause beyond its reasonable control, including requirements of any applicable laws, rules or regulations.

Article 14: NAME, TRADEMARK AND TRADENAME

For the Duration of this Lease the Hotel will be designated as "The Lafayette, Boston's Swissôtel", except as otherwise agreed by the parties.

Owner acknowledges that the tradename and the trademark "Swissôtel", and the goodwill attached thereto, as developed by means of promotion, advertising and other activities in connection with the operation of hotels, is the property of Swissôtel.

Tenant will cause Swissôtel, subject to a royalty of one percent (1 %) of Gross Revenue, to grant to the Tenant the right and license to use the word, name and trademark "Swissôtel" in the name of the Hotel, on the Operating Equipment and Supplies and in connection with advertising and other publicity of the Hotel, however, only as necessary to operate the Hotel in accordance with the provisions of this Lease and to identify the Hotel as a member of the Swissôtel Group. Owner may not use the word "Swissôtel" in Owner's name.

Article 15: DURATION

This Lease becomes effective upon execution thereof by duly-authorized officers of the parties and continues subject to the provisions of this Article until midnight of December thirty first (31st) of the twentieth (20th) full year after the year of the Opening Date. Tenant has the right to extend this Lease for three (3) successive periods of five (5) years, provided Tenant has exercised such right for each preceding period by giving Owner at least nine (9) months prior notice of its intention to extend the Lease.

Thereafter, the Lease continues for successive periods of five (5) years provided neither party terminates the Lease by giving the other party at least twelve (12) months notice prior to the beginning of the next five (5) year period.

Article 16: TERMINATION AND EXPIRATION

16.1. Subject to the provisions of Article 16.2. this Lease may be terminated by either party if the other party is in default under the provisions of this Lease.

16.2. In the event a cause for termination under Art. 16.1. occurs, the other party shall demand that such cause be removed. If, within sixty (60) days from the written demand the cause has not been removed, or the necessary action to remove such cause has not been commenced and is being carried out with due diligence, then such other party can terminate this Lease, giving thirty (30) days notice.

- 6.1. Furniture and furnishings, including fixed and movable decorations, drapes, carpeting, lamps and other items required in guest rooms, public areas and offices of a first-class international hotel.
- 6.2. Hotel equipment required in front office, restaurants, bars, kitchens, laundries, dry-cleaning plants, offices, and other hotel facilities.
- 6.3. Dining rooms wagons, material-handling equipment, cleaning and engineering equipment and vehicles.
- 6.4. Electronic data processing equipment for accounting, restaurants, front office, energy savings, maintenance, elevator controls, safety and security.
- 6.5. Equipment and apparatus for the maintenance and repair of the Building and FF&E.

7. Fiscal Year

The period between January first (1st) and December thirty-first (31st) each year (the calendar year), except that the First Fiscal Year shall be the period between Opening Date and the next following December thirty-first (31st).

8. Fixed Charges

The sum of:

- 8.1. Owner's debt service on mortgage secured debt(s),
- 8.2. Owner's property taxes or payments in lieu thereof,
- 8.3. The payment of not more than \$75,000 per year for air-rights allocable to the Hotel to the City of Boston,
- 8.4. Sewer and water charges and municipal assessments for betterments,
- 8.5. Property insurance premiums in accordance with Article 11.1 of the Lease

9. Gross Operating Profit or Gross Operating Loss

Gross Revenue after deduction of Operating Expenses.

10. Gross Revenue

All revenue and income arising from the operation of the Hotel including receipts from concessionaires, lessees, licensees, and the proceeds of use and occupancy insurance, excluding added value, turnover, sales or similar taxes collected on behalf of local, provincial or federal government.

11. Hotel

- 11.1. Site
- 11.2. Building
- 11.3. FF&E
- 11.4. Operating Equipment
- 11.5. Ancillary Equipment

16.3. The right to terminate this Lease under Art. 16.2. is not in lieu of, and does not eliminate, other remedies in law.

16.4. A cause for termination is not given if there is a bona fide dispute between the parties with respect thereto and this dispute has become the subject of litigation between the parties.

16.5. In the event that either party hereto shall suspend or discontinue business, or shall be adjudicated as bankrupt or insolvent, or shall make an assignment for the benefit of creditors, or a composition with creditors, or shall file a voluntary petition or an answer admitting the jurisdiction of any court in bankruptcy and the material allegations of an involuntary petition, or shall admit in writing its inability to pay its debts when due, or shall consent to an involuntary petition pursuant to any bankruptcy, reorganization or insolvency law of any jurisdiction or country, or if any order shall be entered and continue in effect for sixty (60) days pursuant to any such law approving an involuntary petition seeking a reorganization of, or an arrangement or plan for, such party, or if either receiver or trustee of or for such party, or of or for all or any substantial portion of the property of such party, or if such party shall apply for, or consent to the appointment of, such receiver or trustee, then, and in every such event, unless prohibited by applicable law, upon notice to such party the other party shall have the right to terminate this Lease by notice to the other.

16.6. Upon termination or expiration of this Lease, Tenant is obligated to hand over the Hotel to the Owner in a condition in which it can then be operated as a first-class international hotel, equipped with the necessary FF+E and, Operating Equipment, but without regard to the inventory thereof at the Opening Date, provided, however, in case of a default of Owner under Article 7.3. of the Lease, Tenant shall not be required to make any Capital Expenditures for which Owner did not provide funds.

16.7. Upon termination of this Lease for any reason, Tenant is entitled to remove from the Hotel:

- all signs which identify the Hotel as a "Swissôtel",
- all handbooks, manuals, policies and procedures and other property of Tenant, SMC or Swissôtel which was used in the operation and management of the Hotel,
- electronic data processing equipment which is the property of and connected with a reservation service of Swissôtel and Swissair.

16.8. Upon termination of this Lease for any reason, including a termination in accordance with the provisions of this Article 16., Tenant will no longer be obligated to pay Rent.

Article 17: OBLIGATIONS UPON TERMINATION

Upon termination or expiration of this Lease for any reason, Owner will not use, or allow others to use, the name and trademark "Swissôtel" or any names, trademarks or tradenames which were developed by Swissôtel, or which are deceptively similar to the word "Swissôtel".

Owner further agrees to change the name of the Hotel in a manner which would not lead to confusion with the prior name "Swissôtel". Until existing inventories are used up, Owner is entitled to use Operating Equipment and Operating Supplies which indicate the Hotel has been operated as a Swissôtel. In the event Owner should violate this provision, Tenant and/or Swissôtel are entitled to damages and to protect themselves by means of a temporary restraining order or other available legal remedies. This provision shall survive the Duration of this Lease.

Article 18: ASSIGNMENT, TRANSFERS, LEASES

18.1. Assignment with Consent.

Subject to the provisions of Article 18.2., Tenant shall have no right to assign or otherwise transfer its interests in this Lease without the prior written consent of the Owner. Any consent granted by the Owner to any such assignment or transfer shall not be deemed a waiver, in any subsequent case, of the prohibition contained herein.

18.2. Permitted Assignment to Affiliate of Swissôtel.

Tenant may assign or otherwise transfer its interests under this Lease, without the Owner's prior written consent, to any corporation with or into which Tenant is merged or consolidated or to which it transfers all or substantially all of its assets, or to any subsidiary of Swissôtel or SMC, or to any corporation of which Swissôtel or SMC or any parent or subsidiary of Swissôtel or SMC shall own a majority of each class of

stock entitled to vote; provided, however, that notwithstanding any such assignment Tenant shall (except in the case of an assignment or other transfer in connection with any such merger, consolidation or transfer of assets) continue to be liable hereunder with the same force and effect as if no such assignment or transfer had been made and provided further the Hotel shall continue to be called a "Swissotel", and that [^]the assignee benefits from the Swissôtel and Swissair organization as provided herein to the same extent as the assignor. Upon the making of any assignment or transfer as aforesaid, a duplicate original of the instrument(s) effecting same shall be delivered to the Owner.

18.3. Permitted Assignment and Sale by Owner.

Owner shall have the right, with the consent of Tenant, to assign its interest in this Lease and, without such consent to assign this Lease as collateral security for loans secured by the Hotel, and to persons taking by through or under such lenders, provided such lenders (upon foreclosure and taking possession of the Hotel) or persons agree to assume all of the obligations of this Lease to be performed by Owner hereunder.

Should Owner desire to sell the Hotel then Owner shall give notice to Tenant and in such notice identify in reasonable detail the intended purchaser. Tenant shall consent to the sale or transfer of the Hotel if all of the following conditions are met: (i) The proposed purchaser is at least substantially equal in financial capabilities to Owner, (ii) [^]the proposed purchaser's business reputation is acceptable to Tenant, such acceptance by Tenant not to be unreasonably withheld (whether or not such acceptance is unreasonably withheld to be based upon [^]whether or not the proposed purchaser has a criminal record or a record of defaults or

litigation with other parties to its transactions), and (iii) the proposed purchaser is not controlling, controlled by or under common control with a chain hotel operating company managing first class hotels. Any purchaser shall have to consent to an assumption of the Lease in a form reasonably acceptable to Tenant and Tenant's counsel.

18.4. No Waiver.

In the event of consent by either party to an assignment of this Lease, no further assignment shall be made without the express consent in writing of such party, unless such assignment may otherwise be made without such consent pursuant to the terms of this Lease.

18.5. Leases, Licenses, Concessions.

Subject to Article 4.2., Tenant shall have the right to lease, license or grant concessions for those departments customarily leased or licensed or as to which concessions are customarily granted in modern international hotels throughout the world. Unless the Owner shall consent in writing to the contrary, every such lease, license and concession shall provide for its expiration or sooner termination no later than the respective expiration or sooner termination of this Lease, and shall contain no provision inconsistent herewith.

Article 19: NOTICES

ALL notices by either party to the other will be deemed to have been given if delivered personally or mailed by registered airmail, addressed to

the Owner at One Avenue de Lafayette, Boston, Massachusetts 02111, or to Tenant at the Hotel with copy to Swissôtel at P.O. Box, CH-8058 Zurich-Airport, Switzerland. Any changes of address must be notified as provided herein.

Article 20: INDEMNIFICATION BY OWNER.

Owner agrees to indemnify, defend and hold harmless Tenant, SMC, Swissôtel, their affiliates and any of their respective officers, agents or employees from any and all losses, liabilities, claims, lawsuits judgements and expenses (including reasonable attorney's fees) which may arise out of Owner's failure to provide funds to Tenant pursuant to this Lease, provided that the act or event giving rise to such indemnification shall have been incurred by any of such parties in good faith, consistent with any other provision of this Lease. The foregoing indemnity shall not be deemed or construed as indemnifying any such parties for a breach of any contractual obligations unless such breach shall have been a direct result of Owner having breached its obligations under this Lease. All cost and expenses of Owner under this Article 20.12. shall be an Operating Expense.

Article 21: EMPLOYMENT RELATED CLAIM

All claims for employment related liabilities arising out of or in connection with the employment of any employees employed in connection with the Hotel, including, without limitation, liabilities for wages, salaries, insurance, health and welfare contributions, and, subject to the

reasonable approval of the Owner, pension or deferred compensation plans which accrue during the Duration, shall survive the termination of this Lease, together with the right in Tenant to contribution therefor from Owner, to the same extent as if such claims would have been Operating Expenses had the Lease not been terminated.

Article 22: MISCELLANEOUS

22.1. Right of Inspection.

Subject to the provisions of Article 2.6. of this Lease, duly authorized representatives of the Owner shall have the right to enter the Hotel at all reasonable times during the term of this Lease for the purpose of inspecting the Hotel or of examining or making extracts from its books and records or for any other lawful purpose which the Owner may in its reasonable discretion deem necessary or advisable; provided, however, that the same shall be done with as little disturbance to the business of the Hotel as possible and that all expenses incurred in connection therewith shall be for the sole account of the Owner.

22.2. Waivers.

The failure of either party to insist upon a strict performance of any of the terms or provisions of this Lease or to exercise any option, right or remedy herein contained, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect throughout the term of this Lease. No waiver by either party of any

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term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

22.3. Partial Invalidity.

In the event that any term or condition of this Lease shall be or become invalid by virtue of any duly promulgated law, rule or regulation or under any order, decree of judgment of any court having jurisdiction, this Lease shall be construed as if such term or condition had not been inserted herein, except when such construction (a) would operate as an undue hardship on either party or (b) would constitute a substantial deviation from the general intent and purposes of the parties as reflected herein. In the event of either (a) or (b) above, the parties will use their best efforts to negotiate a mutually satisfactory amendment to this Lease to circumvent the inequity.

22.4. Covenant of Quiet Enjoyment.

Subject to the terms and provisions of this Lease and on payment of the Rent and compliance with all of the terms and provisions of this Lease, Tenant shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Hotel during the Duration without hindrance or ejection by the Owner or anyone claiming by, through or under the Owner.

22.5. Provisions Binding, Etc.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns,

respectively, of the Owner and Tenant. The reference contained to successors and assigns is not intended to constitute a consent to assignment by either party, but has reference only to those instances in which consent may be given to a particular assignment required by the provisions of Article 18 hereof.

22.6. Recording.

Swissôtel agrees not to record this Lease, but each party hereto agrees, on the request of the other, to execute, acknowledge and deliver a Notice of Lease reasonably satisfactory in form to the Owner's and Tenant's attorneys.

In no event shall such document set forth the Rent or other charges payable by Tenant under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

22.7. No Oral Representation.

All negotiations, considerations, representations and understandings between the Owner and Tenant are incorporated herein and in documents of even date herewith and may be modified or altered only by written agreement between the Owner and Tenant.

22.8. Paragraph Headings.

The paragraph headings throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

22.9. Status Report.

Recognizing that both parties may find it necessary to establish to third parties, such as accountants, banks, mortgages or th like, the then current status of performance hereunder, either party, on the request of the other made from time to time, will promptly furnish a statement of the status of any matter pertaining to this Lease.

22.10. Non-competition.

Until this Lease is terminated for any reason, Tenant agrees for itself and all affiliates not to engage directly or indirectly, in the ownership or operation of a hotel within a radius of ten (10) miles of Lafayette Place.

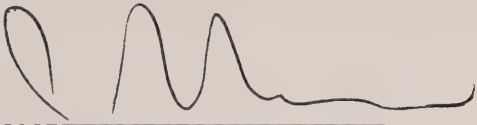
Article 23: APPLICABLE LAW

This Lease will be subject to the law of the Commonwealth of Massachusetts.

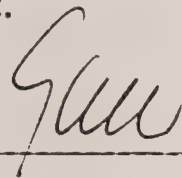
IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date first above mentioned.

OWNER: LAFAYETTE PLACE HOTEL ASSOCIATES
by its General Partners:

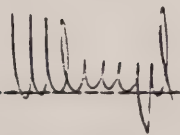
MONDEV MASS., INC.

By  _____

SNH BOSTON, INC.

By  _____

TENANT: SWISSOTEL BOSTON, INC.

By  _____

DEFINITIONS

This Appendix 1 forms an integral part of the Lease between Lafayette Place Hotel Associates ("Owner") and Swissôtel Boston, Inc. ("Tenant"), made as of ~~October~~, 1984..

November 2, 1984.

The following terms used in the Lease and all Appendices thereto will have the following meanings:

1. Adjusted Gross Operating Profit

Gross Operating Profit less Fixed Charges.

2. Ancillary Equipment

2.1. Engineering and housekeeping tools and utensils.

2.2. Restaurant, bar and kitchen utensils.

2.3. Uniforms.

3. Building

The fully air-conditioned hotel complex, including approximately five hundred and four (504) guest rooms and suites, restaurants, bars, dancing, discotheque, convention and banquet rooms, ballroom, personnel quarters, offices, shops, 225 reserved spaces in the parking garage, swimming pool, sauna and other hotel facilities.

4. Capital Expenditures

Expenditures (other than those described in Article 10.3. of the Lease) which in accordance with sound accounting practices are capitalized and amortized relating to the Hotel, including but not limited to the cost of major repairs, alterations, improvements, renewals or replacements to the Hotel structure or to its mechanical, electrical, heating, ventilating, airconditioning, plumbing or vertical transportation system.

5. Duration

The Duration of the Lease as determined by Article 15 hereof.

6. FF&E (Furniture, Fixtures and Equipment)

The contents of the Building, except for the Operating Equipment, including:

- 3 -

12. Opening Date

The date specified in Article 3.1. of the Lease.

13. Operating Equipment

13.1. China, glassware, silverware and other similar items, other than FF&E.

13.2. Linen, bathroom carpets, towels and other similar items.

14. Operating Expenses

The entire cost of maintaining, conducting and supervising the Hotel operation including but not limited to the following:

14.1. The cost of Operating Supplies, Ancillary Equipment, fuel, utilities and other goods and services purchased for the operation of the Hotel.

14.2. All direct and indirect payroll expenses and payroll related expenses, including salaries and wages and additional sums regularly or occasionally distributed to employees (including the Manager); payroll taxes; the cost of training programs; pension plans, health, life, accident or other insurance systems; and the cost of hotel services and other benefits customarily provided to employees of first-class international hotels.

14.3. The cost of the insurance provided in Article 11.2. of the Lease.

14.4. The cost of the independent public accountant and of legal and other consultants required hereunder and in connection with the operation of the Hotel.

14.5. The cost of replacements of and additions to Operating Equipment.

14.6. Commissions, fees and other payments or benefits granted to sales agents, travel agents, credit card companies or reservation services.

14.7. The cost of maintaining and repairing the Hotel as provided in Article 11.2.

14.8. The cost of advertising, publicity, promotion and public relations.

14.9. The cost of the services provided by Swissôtel and/or SMC in accordance with Article 5.8. of the Lease, and the travel, communications and out-of-pocket expenses incurred by executives and employees of SMC and/or Swissôtel and SMC and their affiliated companies or other members of the Swissôtel Group in connection with rendering services for the benefit of the Hotel operation.

14.10. Any direct or indirect taxes, duties or licenses imposed on account of the Hotel operation, excluding taxes on income, property, real estate and other present or future taxes not directly related to the Hotel operation.

14.11. The amounts set aside for the Fund for FF&E as provided in Article 10.3.

- 14.12. The First Retainage to Tenant as provided in Article 5.8 of the Lease.
- 14.13. A royalty of one percent (1%) of Gross Revenue payable to Swissôtel for the use of the name and trademark "Swissôtel".
- 14.14. The Hotel's pro rata share of the cost of maintaining the common facilities of Lafayette Place as agreed to by Tenant.
- 14.15. The cost of compliance with laws, regulations, rules and orders, including compliance with Article 4.5 (c) of the Lease, except for cost included in the Capital Expenditures budget.

14.16 ¹⁷ A

- 14.16. Any other deductions from Gross Revenue made in computing Income Before Fixed Charges of the Hotel in accordance with the Uniform System of Accounts for Hotels on an accrual basis and in accordance with generally accepted accounting principles consistently applied.

15. Operating Supplies

Food and beverages and other edibles, cleaning and maintenance material, paper supplies and other consumable items used in the operation of the Hotel.

16. Permitted Exceptions

Those title exceptions identified on Schedule B of Lawyers Title Insurance Policy number 85-00-249925 dated June 18, 1983, with First through Endorsements. November 2nd, 1984. ✓

17. Rent

As defined in Article 6.1.

18. Site

The air rights in which the Hotel will be constructed, the boundaries of which are described on the Deed referred to in the first paragraph of Article 1.1 of the Lease.

Equipment or system lease payments under lease agreements entered into by Owner with the consent of Tenant or entered into by Tenant.

ITEMS TO BE COMPLETED

This Appendix 2 forms an integral part of the Lease between Lafayette Place Hotel Associates (Owner) and Swissôtel Boston, Inc. (Tenant), made as of November 3, 1984.

1. PUBLIC AREAS

1.1. DROP-OFF LOBBY

- | | | |
|-------|---|--|
| 1.1.1 | Pub-Restaurant | Included in leased premises as shell space |
| 1.1.2 | Service elevator no. 8 starts on this level | No action, Fire man key operated |

1.2. RECEPTION AREA, LOBBY

- | | | |
|--------|---------------------------|---|
| 1.2.1. | Newstand inside the Hotel | Two areas reserved as Newsstands on concierge floor, one as shell space |
|--------|---------------------------|---|

1.3. CAFE & BRASSERIE (C-B) / SIGNATURE RESTAURANT (SR)

- | | | |
|--------|--|-------------------------|
| 1.3.1. | Buffet with cooling/heating elements and plate warmers | To be provided by Owner |
| 1.3.2. | Additional 2 service stations in C-B suggested | open |
| 1.3.3. | Winerack, evtl. cruvinet, in SR | open |

1.4. BALLROOM AND MEETING ROOMS FLOOR

- | | | |
|--------|--|--|
| 1.4.1. | Public toilets absolutely insufficient. (Use space allocated for meeting-room No. 9) | open |
| 1.4.2. | Coat room installations | Coat rack system to be provided by Owner |
| 1.4.3. | Door from meeting room No.6 to storage missing | To be provided by Owner |
| 1.4.4. | Built-in screen installations in meeting rooms | To be provided by Owner |

2. BEDROOMS AND FLOORS

- | | | |
|---------|--|--|
| 2.1.1. | Silky wall vynil
6-11th floor
12-21th floor | open |
| 2.1.2. | A/C grills to be painted and
not in plain white aluminium | To be done by Owner |
| 2.1.3. | Luggage rack | open |
| 2.1.4. | Second night stand in larger
rooms | open |
| 2.1.5. | 1 Tel. on writing desk and
1 on night stand in large
room | open |
| 2.1.6. | Electric alarm-clock with
radio | Owner to attempt to
seperate radio from TV
in Magnavox contract. |
| 2.1.7. | Lampshade sizes to be adjusted
according to specification | To be done by Owner |
| 2.1.8. | TV with remote control | See 2.1.6. |
| 2.1.9. | Pully of curtains to be placed
on opposite side of stand lamp | To be done by Owner |
| 2.1.10. | Marble tabletop to be fixed | To be done by Owner |
| 2.1.11. | Marble silicon sealed | open |
| 2.1.12. | Small refrigerator in every
room | open |
| 2.1.13. | Finish of ceilings | Owner to comply with
specifications |
| 2.1.14. | Artwork to be improved | open |
| 2.1.15. | Shelving and tierack for
cupboard | To be provided by Owner |
| 2.1.16. | Furnishing for 16 sitting rooms
for additional suites (for
rooms with connecting doors on
floors 12/14/15/16/17/18/19/20) | open |
| 2.1.17. | Handicapped rooms | Owner to comply with
code |
| 2.1.18. | Automatic fire doors on floors | Owner to comply with
code |

- | | | |
|---------|---|--|
| 2.1.19. | Hair dryers in Bathrooms in
in Suites and Presidential
suite | to be installed by Owner
(9 suites) |
| 2.1.20. | Telephone in bathroom | To be provided by Owner |
| 3. | <u>BACK OF THE HOUSE</u> | |
| 3.1. | <u>RECEIVING AREA</u> | |
| 3.1.1. | Transporting equipment
receiving area - kitchen | open |
| 3.1.2. | F8/F14 on plans need bottle
shelving | To be provided by Owner |
| 3.1.3. | Empty bottle storeroom lockable | To be provided by Owner |
| 3.1.4. | Garbage compactor | To be leased by Operator |
| 3.1.5. | Definition of responsibilities
for cleaning a maintenance in
commonly used areas such as
garbage area and employee
entrance | To be agreed to
between Operator and
Retail operator |
| 3.1.6. | Expenses of dual used elevator
No. 11 | As 3.1.6. |
| 3.2. | <u>KITCHEN</u> | |
| 3.2.1. | Roller shutter for banquet
servicebar needed | To be provided by Owner |
| 3.2.2. | Service bar, waiter side,
racks and shelving for glasses
over bar | To be provided by Owner |
| 3.2.3. | Heating cabinet for coffee pots | open |
| 3.2.4. | Dishwashing rack shelf must
have drainage | To be provided by Owner |
| 3.2.5. | Dishwashing, waiter side,
transportation equipment
(cabinets) for soiled linen,
empty bottles and garbage | open |
| 3.2.6. | B7, undercounter heated plate
storage | To be provided by Owner |
| 3.2.7. | Bread heater | open |
| 3.2.8. | Storage place | To be provided by Owner |

BANQUET PANTRY

- 3.2.9. Warming cabinet for coffee cups open
- 3.2.10. Plugs for hot food carts To be provided by Owner

ROOM SERVICE (RS)

- 3.2.11 Break through of windows in RS office To be provided by Owner
- 3.2.12. Mobile long assembly table open
- 3.2.13. Linen storage To be provided by Owner
- 3.2.14. China storage, space To be provided by Owner
- 3.2.15. Cutlery storage, space To be provided by Owner
- 3.2.16. Glass storage, space To be provided by Owner
- 3.2.17. Counter with heating lamp open
- 3.2.18. Dry food storage To be provided by Owner
- 3.2.19. Coffee pot heater open
- 3.2.20. Coffee cup heater open

COLD KITCHEN

- 3.2.21. Scale 10 pounds open
- 3.2.22. Wall shelving To be provided by Owner
- 3.2.23. Cream shipper, 1 quart open
- 3.2.24. Hot fudge warmer open

BEVERAGE DISPENSE STATION (SERVICE BAR)

- 3.2.25. Roller shutter To be provided by Owner
- 3.2.26. Dutch door lockable To be provided by Owner
- 3.2.27. Waiter side, glass shelves To be provided by Owner
- 3.2.28. Blender open
- 3.2.29. Quick portioner for 24 bottles open

POT WASHING

- 3.2.30. Floor grill rack for potwasher To be provided by Owner

HOT FOOD

- | | | |
|---------|----------------------|------|
| 3.2.31. | 2nd microwave | open |
| 3.2.32. | Low pressure steamer | open |
| 3.2.33. | Refrigerated drawers | open |
| 3.2.34. | Sandwich unit | open |

DISHWASHING

- | | | |
|---------|---|-------------------------|
| 3.2.35. | Rack shelf and soiled dish table must have drainage | To be provided by Owner |
| 3.2.36. | Dish/plate caddies | open |
| 3.2.37. | Cup rack trollies | open |
| 3.2.38. | Cutlery boy trollies | open |

PRODUCTION

- | | | |
|---------|-----------------|------|
| 3.2.39. | Hot trollies | open |
| 3.2.40. | Vertical cutter | open |

BAKERY

- | | | |
|---------|---------------|------|
| 3.2.41. | Flour trolley | open |
| 3.2.42. | Sugar trolley | open |

4. VARIOUS

- | | | |
|--------|--|------|
| 4.1.1. | Certain sound and audio visual equipment and the providing of maintenance and other services by LAT (London Town Associates) and Lafayette Place Associates (includes pool area)
<u>lease starting July 1, 1984,</u>
<u>duration 60 months residual</u>
<u>value \$ 1'667.75, monthly</u>
<u>fee \$ 2'543.25</u> | open |
| 4.1.2. | Hotel television sets with am/fm radio (without remote control) by N.A.P. Commercial Electronics Corp. (Philips Lodging Products Division) to Lafayette Place Associates
<u>lease starting from date of</u>
<u>installation completion,</u>
<u>duration 84 months, value of</u>
<u>lease \$ 227'749.09, monthly</u>
<u>fee \$ 2'712.02.</u> | open |

4.1.3. Hotel Electronic Automatic Leased by Owner;
Branch Exchange (excluding rental will be
energy management featur) call operating expense
accounting (40'000 Honeywell)
lease starting from May 20,
1984, duration 120 months,
value of lease \$ 560'000.-,
monthly fee \$ 7'014.56

4.2. EQUIPMENT ADMINISTRATION

4.2.1. Computer (Rooms management, open
guest ledger, accounts,
receivable, payable, payroll,
general ledger, inventories)

4.2.2. Point of sales cash register open
system

4.2.3. Any other major administrative open
equipment

OTHER

4.3.1. Minibars open

4.3.2. Inhouse movie system (Videopax) To be provided by
Operator

4.3.3. Inhouse piped music to various see 4.1.1.
areas, incl. staff canteen

4.4. HEALTH CLUB/STAFF CANTEEN

~~4.4.1. Who is to run the health club Hotel operator
presently built~~ ✓

~~4.4.2. Staff canteen space to be used Owner to provide
for expanded health club with replacement space on
health club operator selected third level of retail
by Owner with consent of space for one dollar
Tenant, at no charge to (\$1.-)rent per year and
Hotel additional space for
health club from retail
space.~~

4.4.3. ~~Requirements for staff canteen: To be provided by Owner
Landing station dirty plates
and glasses, empty bottle
disposer, heated transportation
earts, background music~~

(See letter agreement between Owner, Mondev Mass., Inc. and Tenant
of November 3, 1984, attached hereto as Appendix 4)

5. STRUCTURAL OBSERVATIONS

5.1. Service Areas

- 5.1.1. Cost sharing of A/C, escalators/elevators and sovgae in public areas Equitable distribution to be negotiated

6. AGREEMENTS/CONTRACTS

- 6.1. Shopping list City Hall, improvements To be handled by Owner and Tenant jointly
- 6.2. Contract Leonard Parker Purchasing Agent To be provided by Owner
- 6.3. Signage privileges for Restaurant in Shopping Mall To be arranged for by Owner in accordance with retail policy

7. Owner will provide \$ 1,000,000.- for the purchase by Owner ~~for~~ Tenant of those items marked "open" as designated or specified by Tenant and that may be purchased for that sum. The cost of items marked "open" which cannot be purchased for that sum and are purchased by Tenant are an Operating Expense, provided Owner has given its prior approval to such purchase, which approval shall not unreasonably be withheld.
8. Owner will ~~provide~~ ^{purchase for} not more than \$172,800 to Swissôtel for the purchase of flatware, table linen and terry cloth towels. Owner agrees to provide flatware, table linen and terry cloth towels in accordance with Swissôtel specifications.
9. Owner represents that items contained in Owner's FF+E budget of an aggregate value of \$492,800 have not been ordered or committed as of signing of this Lease. Owner agrees that Tenant, at its sole discretion, may reallocate this amount for FF+E items which it requires for the operation of the Hotel.

Owner will purchase those items as specified and at the price negotiated and approved by Tenant and if Owner makes such purchases through its purchasing agent this will cause no additional cost to be included in such sum.

EXHIBIT G

TO

LAFAYETTE PLACE HOTEL ASSOCIATES
SECOND AMENDMENT TO LIMITED PARTNERSHIP AGREEMENTOpening Date

The Opening Date shall be, and the Hotel shall commence business, no later than the date on which the last of the following events shall have occurred:

1. There shall be public access between the Hotel and the garage levels, the ground level and the third floor level of the Lafayette Place development.

2. The entrances to the Hotel at its lobby, the street level and the garage level shall be completed.

3. All of the elevators in the Hotel (including all Hotel service elevators) shall have been approved for use by public authority.

4. Seven days shall have elapsed from the last of the following to have occurred:

(a) the date on which the banquet rooms (including all F.F. & E in the banquet rooms) became operational.

(b) the date on which all meeting rooms and the banquet kitchen became operational.

5. Fifteen days shall have elapsed from the last of the following to have occurred:

(a) the date on which some of the elevators serving the Hotel have been approved for use by public authority.

(b) the date on which the reception lobby became ready for operation.

(c) the date on which the coffee shop became operational.

(d) the date on which 95% of the rooms of three of the four mini-lobby blocks shall have been completed and are ready for operation.

(e) the date on which all of the following equipment became functional in public and operations areas: telephones, closed circuit television, sound equipment and the security system.

6. Twenty-one days shall have elapsed from the date on which the laundry and adjacent areas became operational and all equipment tested.

7. Thirty days shall have elapsed from the last of the following to have occurred:

(a) the date on which the reception offices and all other offices for the Managers and staff became operational (including telex and telephone services).

(b) the date on which the main kitchen and all of its adjacent work areas (such as, but without limitation, room service, banquet preparation, kitchen, pastry shop and pantries) became operational.

(c) the date on which access and receiving areas became operational.

(d) the date on which the storeroom areas, including the compactors, became operational.

(e) the date on which the personnel changing rooms became operational.

(f) the date on which the personnel cafeteria (or a temporary cafeteria) became available for use.

(g) the date on which all mechanical equipment (including, without limitation, air conditioning, heating, power supply, gas and steam) became operational.

In addition to the foregoing events that must take place prior to the Opening Date, the following events shall occur within the time periods specified:

A. Mondev shall use its best efforts to cause the City of Boston to complete the installation of street lights around the Hotel prior to the Opening Date.

B. The Signature Restaurant shall be ready for occupancy within fifteen days after the Opening Date.

C. The swimming pool shall be operational within thirty days after the Opening Date.

D. All rooms and suites not completed and operational by the Opening Date shall be completed and operational within thirty days after the Opening Date.

E. Mondev Mass., Inc. agrees that from and after the Opening Date, Mondev will, subject to events beyond its reasonable control, conduct all construction activity so as to minimize any disruption of, and so as not unreasonably to disturb, the operation of the Hotel.

LAFAYETTE PLACE ASSOCIATES
Avenue de Lafayette
Boston, Massachusetts 02111

November 3, 1984

Lafayette Place Hotel Associates
Swissotel Boston, Inc.
Avenue de Lafayette
Boston, Massachusetts 02111

Re: Health Club Facility

Gentlemen:

This letter is intended to set forth our understanding of the terms on which certain portions of the hotel portion of Lafayette Place (the "Hotel") may be used for the purposes of operating a health club facility.

If Lafayette Place Associates ("LPA") locates a person or entity who wishes to operate a health club facility at Lafayette Place (the "health club operator"), Lafayette Place Hotel Associates ("LPHA") and Swissotel Boston, Inc. ("Swissotel"), the tenant and operator of the Hotel, agree that such health club operator shall be entitled to enter into an agreement to use the following portions of the Hotel:

- (a) the swimming pool;
- (b) the health club; and
- (c) if required by the health club operator, the personnel and staff cafeteria space (the "Hotel Cafeteria Space") adjoining the swimming pool and health club.

LPA shall be responsible for providing, or requiring the health club operator to provide, casualty and liability insurance with respect to the health club facility. In addition, LPA may provide to the health club operator such portions of the retail portion of Lafayette Place (the "Retail Mall") for the operation of such health club facility as LPA, in its sole discretion, deems advisable; any such agreement with the health club operator for space in the Retail Mall shall contain such terms and provisions and be for such fees and rents as LPA, in its sole discretion, determines.

If the health club operator requires the use of the Hotel Cafeteria Space for the health club facility, LPA agrees to lease to Swissotel space within the Retail Mall of the same size as the Hotel Cafeteria Space. The rent payable

by Swissotel under such lease shall be One Dollar (\$1.00) per year. Such leased space within the Retail Mall (the "Retail Space") shall be improved by LPA, at LPA's expense, to serve as a cafeteria for Hotel personnel and staff in accordance with plans and specifications reasonably consistent with the original plans and specifications for the Hotel Cafeteria Space. Furthermore, LPA will supply, at LPA's expense, minor additional equipment necessary to operate the Retail Space as a personnel and staff cafeteria for the Hotel reasonably consistent with the original plans and specifications for the Hotel Cafeteria Space.

The agreement with the health club operator for use of portions of the Hotel shall contain such terms and provisions and be for such fees and rents, as are mutually agreeable to LPA and Swissotel, provided, however, that any such agreement shall contain provisions to the following effect:

(a) The health club operator shall be responsible for all regular maintenance and cleaning of the swimming pool, the health club and the other space located within the Hotel being operated as the health club facility. If the health club operator requests, Swissotel shall provide, at cost, regular maintenance and cleaning services to the health club facility; the cost of such services shall be payable by the health club operator upon invoice. Swissotel shall be solely responsible for structural or mechanical repairs and maintenance of all space located within the Hotel being operated as the health club facility.

(b) All utility services furnished to the health club facility space within the Hotel shall be provided by LPHA and/or Swissotel and shall be payable monthly by the health club operator.

(c) The provisions of the agreement relating to the standards of cleaning, hygiene, sanitation and regular maintenance of the health club facility and the conditions subject to which Hotel guests may use the health club facilities (including the swimming pool) shall be acceptable to Swissotel.

(d) Swissotel shall have the right, from time to time and upon reasonable prior notice, to enter the health club facility for the purpose of repairing, maintaining and inspecting other portions of the Hotel and for maintaining and repairing the mechanical and structural portions of the health club facility for which Swissotel is responsible.

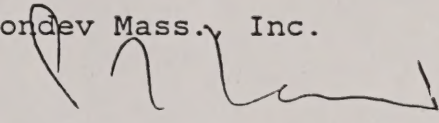
(e) The health club operator shall be acceptable to Swissotel and the standards of operation of the health club facility shall be compatible with the operating standards of the Hotel.

Please acknowledge your agreement to the foregoing by signing and returning the enclosed counterpart of this letter to the undersigned.

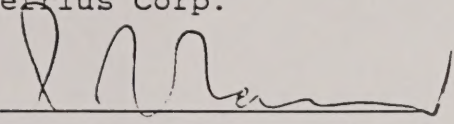
Very truly yours,

LAFAYETTE PLACE ASSOCIATES

By Mondev Mass., Inc.

By 

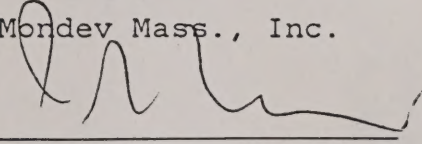
By Sefrius Corp.

By 

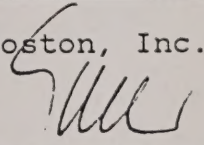
Agreed to this third (3rd) day of November, 1984.

LAFAYETTE PLACE HOTEL
ASSOCIATES

By Mondev Mass., Inc.

By 

By SNH Boston, Inc.

By 

SWISSOTEL BOSTON, INC.

By 